

JEROME BAUMGARTNER 12/19/2018

Page 1

1                   IN THE UNITED STATES DISTRICT COURT  
2                   EASTERN DISTRICT OF MISSOURI  
3                   EASTERN DIVISION  
4  
5  
6     MALEEHA AHMAD, et al.,                       )  
7     Plaintiffs,                                        )  
8     vs.    ) Cause No.  
9     CITY OF ST. LOUIS, MISSOURI,                  ) 4:17-cv-2455-CDP  
10    Defendant.                                        )  
11  
12  
13  
14

15                   DEPOSITION OF JEROME BAUMGARTNER  
16                   Taken on behalf of the Plaintiff  
17                   December 19th, 2018

18  
19                   Jamie Jo Kinder, CCR 842, CSR 084.003306  
20  
21  
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Exhibit T

JEROME BAUMGARTNER 12/19/2018

Page 2

	I N D E X	
	Page	
1		
2		
3		EXAMINATION
4	QUESTIONS BY MS. STEFFAN	5
5	QUESTIONS BY MS. DUNCAN	42
6	QUESTIONS BY MS. STEFFAN	42
7		EXHIBITS
8	Baumgartner Deposition Exhibit 1	13
9	Baumgartner Deposition Exhibit 2	29
10		
11		
12		
13		
14		
15	(Exhibit retained by the Reporter.)	
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

JEROME BAUMGARTNER 12/19/2018

Page 3

1 IN THE UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF MISSOURI  
3 EASTERN DIVISION

4 MALEEHA AHMAD, et al., )  
5 Plaintiffs, )  
6 vs. ) Cause No.  
7 CITY OF ST. LOUIS, MISSOURI, ) 4:17-cv-2455-CDP  
8 Defendant. )

9

10 DEPOSITION OF WITNESS, JEROME BAUMGARTNER,  
11 produced, sworn, and examined on the 19th day of December,  
12 2018, between the hours of 1:22 o'clock in the afternoon  
13 and 2:31 o'clock in the forenoon of that day, at St. Louis  
14 City Hall, 1200 Market, Room 314, St. Louis, MO, before  
15 Jamie Jo Kinder, Missouri CCR 842, Illinois CSR 084-00306,  
16 a Certified Court Reporter within and for the State of  
17 Missouri, in a certain cause now pending before the United  
18 States District Court, Eastern District of Missouri,  
19 Eastern Division, wherein MALEEHA AHMAD, et al., are the  
20 Plaintiffs, and CITY OF ST. LOUIS, MISSOURI is the  
21 Defendant.

22

23

24

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JEROME BAUMGARTNER 12/19/2018

Page 4

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JEROME BAUMGARTNER 12/19/2018

Page 5

1 (Deposition commenced at 1:22 p.m.)

2 IT IS HEREBY STIPULATED AND AGREED, by and between  
3 counsel for Plaintiffs and counsel for Defendant, that the  
4 deposition of JEROME BAUMGARTNER may be taken in shorthand  
5 by Jamie Jo Kinder, CCR, CSR, a notary public and shorthand  
6 reporter, and afterwards transcribed into typewriting; and  
7 the signature of the witness is expressly reserved.

8 \* \* \* \* \*

9 JEROME BAUMGARTNER,

10 of lawful age, being produced, sworn and examined on  
11 behalf of the Plaintiffs, deposes and says:

12 EXAMINATION

13 QUESTIONS BY MS. STEFFAN:

14 Q Good afternoon, Mr. Baumgartner.

15 A Hello.

16 Q I introduced myself earlier, but I'm Jessie  
17 Steffan. I'm one of the plaintiffs' attorneys, which is  
18 Ahmad versus the City of St. Louis. I'm going to ask you  
19 to state and spell your name for the record?

20 A Jerome, J-E-R-O-M-E, Baumgartner,  
21 B-A-U-M-G-A-R-T-N-E-R.

22 Q Have you been deposed previously?

23 A For this case?

24 Q For any case.

25 A Yes.

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JEROME BAUMGARTNER 12/19/2018

Page 6

1                   Q     So you generally understand how a deposition  
2     works?

3                   A     Yes.

4                   Q     I'll go over a couple of quick ground rules.  
5     Let's try not to talk over one another so that the court  
6     reporter can take down a record, and when you're answering  
7     I would ask for you to answer verbally, so yes or no rather  
8     than saying uh-huh or shaking your head. If you don't  
9     understand a question that I have asked, please ask me to  
10   clarify, otherwise if you respond I'll assume that you  
11   understood the question; is that fair?

12                  A     Okay.

13                  Q     We probably won't be here long enough to take  
14   a break, but if you need to take a break, that's fine. If  
15   there is a question hanging out in the air, I would ask  
16   that you respond to that question before we go on a break.  
17   Do you understand?

18                  A     Yes.

19                  Q     Have you taken any medication, drugs or  
20   alcohol today that would affect your ability to testify  
21   truthfully or to remember things?

22                  A     No.

23                  Q     What did you do to prepare for this  
24   deposition?

25                  A     Just looked over the documents that were a

JEROME BAUMGARTNER 12/19/2018

Page 7

1 part of the declaration that I signed several months ago.

2 Q Other than that, did you do anything to  
3 prepare?

4 A No.

5 Q Did you talk to anyone in preparation for this  
6 deposition?

7 A Just spoke with --

8 MS. DUNCAN: Other than counsel?

9 Q (By Ms. Steffan) Other than your attorney,  
10 yes.

11 A No.

12 Q How old are you?

13 A 44.

14 Q And what is your position with the police  
15 department?

16 A Manager of planning and research.

17 Q Is that the same position that you held during  
18 the events at issue in this case in September of 2017?

19 A Yes.

20 Q What is your educational background?

21 A Doctorate in psychology, master of legal  
22 studies, both from the University of Nebraska.

23 Q Are you from Missouri originally?

24 A Yes.

25 Q So I understand, you're not a commissioned

JEROME BAUMGARTNER 12/19/2018

Page 8

1       **officer; is that correct?**

2           A     Correct.

3           Q     **You're a civilian employee of the police**  
4       **department?**

5           A     Yes.

6           Q     **When did you begin your employment with the**  
7       **police department?**

8           A     July of 2005.

9           Q     **Have you worked there continuously since then?**

10          A     Yes.

11          Q     **When did you earn your doctorate?**

12          A     2003.

13          Q     **What did you do between 2003 and 2005?**

14          A     I did some private consulting work initially  
15       when I came back home to St. Louis for some people doing  
16       dissertations and then I had a job for several months with  
17       the St. Louis City Health Department.

18          Q     **And I assume you did a dissertation as part of**  
19       **your doctorate degree?**

20          A     Yes.

21          Q     **What did that relate to?**

22          A     Essentially like threat assessments to public  
23       officials.

24          Q     **Is that what you would say your specialty or**  
25       **your area of interest was during your academic career?**

JEROME BAUMGARTNER 12/19/2018

Page 9

1           A     Area of interest was generally violence risk  
2     assessment and we had some opportunities to do work with a  
3     number of law enforcement agencies while I was in graduate  
4     school, one of them happened to be the U.S. Capital Police  
5     in Washington, D.C. So we examined some characteristics of  
6     contacts and contactors with federal legislators.

7           **Q     Do you apply your -- what you learned as part**  
8     **of your academic training in your job now?**

9           A     Yes.

10          **Q     How does that relate to what you do now?**

11          A     What relates most to the current job probably  
12     is research skills, analytic skills. Rarely do  
13     psychological topics come up or come across any work that I  
14     do. So it's really mostly I think the behavioral science  
15     research background.

16          **Q     And your title is director of planning?**

17          A     Planning and research manager.

18          **Q     What do you do on a day-to-day basis? What**  
19     **does that mean?**

20          A     Units like ours in police departments do a  
21     whole variety of things. They could be very narrow in  
22     scope in some areas and very broad in scope in others. Our  
23     agency planning and research comprises like three separate  
24     distinct kind of subsections. The planning and research  
25     section itself which focuses on, I'm going to call it, like

1 management analysis work, executive level kind of research,  
2 data analysis, work for command staff. We also manage the  
3 policies and procedures in the department and we will do a  
4 host of other, I don't know, like resource allocation  
5 analyses, a variety of like performance assessment  
6 research, not individual officer performance assessment,  
7 not like an annual performance review kind of thing, but  
8 like, you know, measurement of, you know, attempting to  
9 reach some sort of goal, like response times to calls for  
10 service, things like that.

11                   The secondary is accreditation, so the  
12 department's accreditation through the Commission on  
13 Accreditation for Law Enforcement Agencies or CALEA is  
14 managed in our shop. We have accreditation across law  
15 enforcement training academy and one for communications, so  
16 there are three separate areas.

17                   And then the third area is we have a set of  
18 staff who do the uniform crime reporting to the state and  
19 the FBI, and so they apply the FBI and state crime  
20 reporting standards and rules to police reports that they  
21 read and that data gets coded then into a separate system  
22 which we use for eventual reporting to the state and to the  
23 federal government.

24                  **Q To summarize what you just said, your office  
25 has essentially three main duties, planning and research,**

1       which you described several aspects of, the accreditation  
2       through CALEA, including the academy and communications,  
3       and the uniform crime reporting; is that right?

4                  A       Yes.

5                  Q       Are there any other main big duties that your  
6       office undertakes?

7                  A       No. That probably encompasses everything.

8                  Q       And you aren't the head of that office; is  
9       that right?

10                 A       Yes.

11                 Q       Is that the position that you started at when  
12       you came to the police department or did you start in a  
13       lower position?

14                 A       Started in a lower position.

15                 Q       What was the first position that you undertook  
16       when you started your employment with the police  
17       department?

18                 A       It's called police planner two, and it was  
19       essentially the number two in the unit, and I held that  
20       position until the existing or the manager at the time who  
21       hired me left for medical reasons in late 2014, and then he  
22       was on extended leave for a while where I was essentially  
23       covering in an interim basis until I think it was 2016.

24                 Q       Who do you report to?

25                 A       Currently?

1           **Q**     Yeah. Let's start with currently, who do you  
2 report to now?

3           **A**     Currently we have an arrangement where our  
4 units report to a major, Major Eric Larson, in the  
5 department and that has been since the new chief was hired.

6           **Q**     If I remember correctly, that was  
7 December 2017; is that right?

8           **A**     His hire date? I can't remember his hire  
9 date. Everything seemed to become effective or things  
10 started happening more in January. So I feel like it was  
11 more mid January.

12          **Q**     Okay. Prior to reporting to Major Larson, who  
13 did you report to in your office?

14          **A**     Prior to that for a relatively brief period of  
15 time to the assistant chief of police, Colonel O'Toole.

16          **Q**     You said that was for relatively brief periods  
17 of time?

18          **A**     Yes.

19          **Q**     How long did you report to Colonel O'Toole?

20          **A**     Maybe a year. I don't remember exactly how  
21 long.

22          **Q**     I'm going to show you a document real quick.  
23 Have you seen a document that looks like this previously?

24          **A**     Yes, I have seen organizational charts that  
25 look like this.

1 Q I'll go ahead and call this Baumgartner

2 **Exhibit 1.**

3 (Baumgartner Deposition Exhibit No. 1 marked  
4 for identification.)

5 Q (By Ms. Steffan) If you could keep that in  
6 front of you for a second. I'm just going to ask you a  
7 couple of questions about it. You are listed on this  
8 chart; is that right?

9 A Yes.

10 Q This chart is dated from September of 2017; is  
11 that right?

12 A It appears to be, yes.

13 Q And is it accurate to say that at the time  
14 this chart was created in September of 2017 you were  
15 reporting to Colonel O'Toole, who was at that time the  
16 assistant chief; is that right?

17 A He was the assistant chief, but at this period  
18 of time I believe he was also the acting police  
19 commissioner.

20 Q Okay. As far as your office goes, do you see  
21 anything on this chart that looks incorrect about what your  
22 chain of command was at that time?

23 A No.

24 Q At this time, you no longer report to a person  
25 in the assistant chief position, instead you report to a

1       **major; is that right?**

2           A      Yes.

3           Q      **And who does, if you know, who does Major**  
4       **Larson report to?**

5           A      I think in the current organizational  
6       structure, that major role is reporting directly to the  
7       chief's office, I believe.

8           Q      **Is there an assistant chief now?**

9           A      Yes.

10          Q      **Who is the assistant chief now?**

11          A      Colonel O'Toole.

12          Q      **Do you know why you -- your office now reports**  
13       **to Major Larson and not to assistant Chief O'Toole?**

14          A      No.

15          Q      **Did you make the decision to change the**  
16       **organizational structure?**

17          A      No.

18          Q      **Do you know who made that decision?**

19          A      The current chief.

20          Q      **Do you know when he made that decision?**

21          A      No.

22          Q      **Just after he took his chiefship; is that fair**  
23       **to say?**

24          A      Yes.

25          Q      **Have your office duties changed at all since**

1       **Chief Hayden took over as the police chief?**

2           A      No.

3           Q      **How many staff are in your office?**

4           A      Currently?

5           Q      **Yeah. Let's start with currently.**

6           A      Including myself?

7           Q      **Yes.**

8           A      Including anyone who is detached -- what's  
9         called detached there on a temporary basis?

10          Q      **When you're not detached, is it called  
11         assigned? Is that the other term that you would use, if  
12         it's a more permanent position?**

13          A      Commissioned staff occasionally getting  
14         detached temporarily from their home assignment to another  
15         assignment.

16          Q      **Yes.**

17          A      So that's the situation I'm talking about.

18          Q      **Okay. So does your -- Sometimes you have  
19         commissioned staff who is detached from somewhere else; is  
20         that right?**

21          A      Every so often.

22          Q      **Okay. Is your office primarily staffed of  
23         civilian employees?**

24          A      Yes.

25          Q      **So let's exclude commissioned officers for a**

1       while or for this point. How many civilian staff work in  
2       your office? Really I'm just trying to get an approximate  
3       number. So if it's not exactly precise, that's fine.

4                  A       Ten.

5                  Q       Were there also 10 civilian staff in the fall  
6       of 2017 or has your office gotten smaller or larger?

7                  A       Smaller.

8                  Q       How many staff were there in the fall of 2017?

9                  A       I don't remember exactly.

10                 Q       More than 10, but not a lot more than 10?

11                 A       Yes. Could have been 12.

12                 Q       Thinking back, if you recall, to September and  
13       October of 2017, did you have any commissioned officers who  
14       had been detached to your office at that time?

15                 A       At that time, no.

16                 Q       And do you have any now?

17                 A       Yes.

18                 Q       How many commissioned officers do you have  
19       detached to your unit now?

20                 A       One.

21                 Q       Who is that officer?

22                 A       Lieutenant Vonda Rushing.

23                 Q       She's female?

24                 A       Yes.

25                 Q       What is her role in your unit?

1                   A     She's currently in a limited duty status due  
2     to medical reasons. So she was sent to us to help review  
3     some policies and updates on policies essentially.

4                   Q     **Does Major Larson interact with your office on**  
5     **a day-to-day basis? Does he do that regularly?**

6                   A     Not day-to-day.

7                   Q     **Do you have a formal way of checking in with**  
8     **Major Larson about what your office should be doing, like a**  
9     **weekly meeting or a weekly e-mail or something like that or**  
10    **is it more an ad hoc checking?**

11                  A     More ad hoc.

12                  Q     **Does your office produce regular reports to**  
13    **the command staff of the police department?**

14                  MS. DUNCAN: I'll object as vague as to  
15    reports.

16                  Q     **(By Ms. Steffan) Do you understand what I'm**  
17    **asking?**

18                  A     No.

19                  Q     Okay. **Do you -- Is there some mechanism for**  
20    **reporting on the activities of your office that you give to**  
21    **the commissioned command staff of the police department on**  
22    **a regular basis? For example, I think the police**  
23    **department itself produces an annual report that they make**  
24    **publically available. Does your office have something like**  
25    **that where you regularly give updates about what your**

1       **office is doing to command staff?**

2           A      No.

3           **Q      How do you find out what your, for lack of a**  
4      **better word, your commander would like your office to be**  
5      **doing? How do they convey information to you?**

6           A      Our office has moved a number of times in the  
7      last couple of years in terms of who we're reporting to.  
8      All of the years that I had been in the unit we had  
9      reported directly to the chief, Chief Dodson, then moved  
10     our office to reporting to the assistant chief. So as a  
11     result, we get a lot of requests for projects, what have  
12     you, coming directly from the chief's office. Sometimes,  
13     though, requests may come through another commander. Even  
14     in the current arrangement, things don't always come  
15     directly through Major Larson. If you were to look at a  
16     current organizational chart, we don't actually even report  
17     to Larson on that chart. It's an arrangement that has just  
18     been placed. He's over a different organizational function  
19     now. We're technically under a different major, but we  
20     report to -- or I shouldn't say report. We work with  
21     Larson. I don't know that we are quite reporting. We work  
22     with Larson because I think the chief kind of wanted to  
23     leverage some of his skill sets and background to look at  
24     policies and kind of review things as they came in that end  
25     up touching us frequently. So requests can come from a

1           number of different sources directly.

2           **Q       And do they -- If, let's say, the chief's**  
3       **office has a request for you, does somebody just walk down**  
4       **there and tell you so or does --**

5           **A       It could be that way. It could be via phone**  
6       **call, e-mail, conversation, a host of different ways.**

7           **Q       And where is your unit located? I think you**  
8       **said so before, but are you in police headquarters?**

9           **A       Yes.**

10          **Q       When earlier you testified that your office**  
11       **had these sort of three main responsibilities, one of which**  
12       **was planning and research; is that correct?**

13          **A       Yes.**

14          **Q       When you testified about resource allocation,**  
15       **is that more determining how resources should be allocated**  
16       **or sort of inventorying how they are allocated? In other**  
17       **words, are you making a decision? Is your office making a**  
18       **decision about how to allocate resources or are you just**  
19       **gathering data about how resources have been allocated?**

20       **Does that make sense?**

21          **A       Yes. That work, which only happens**  
22       **sporadically, really is focused on workload assessment and**  
23       **kind of the amount of resources necessary to handle a**  
24       **particular amount of work given the particular functions of**  
25       **a given unit or what have you. So it is not about tactical**

1 event level, incident level allocation.

2           **Q     Do you -- Does your office make**  
3           **recommendations about how workloads should be allocated?**

4           A     Regular recommendations? No, not regular  
5 recommendations.

6           **Q     You might do so in sort of an individual**  
7           **situation, is that what you're saying? You might do it**  
8           **infrequently but not regularly?**

9           A     Infrequently there will be -- either a project  
10          requested or a need to or a request to examine the workload  
11          needs of a particular unit. Communications, for example,  
12          comes up frequently. Staffing at the call-taker agent  
13          position given the number of calls that come in and times  
14          spent on calls and the variety of factors like that.  
15          Periodically there is no given or specific intervals for  
16          it, but we periodically looked at the allocation of  
17          officers to the districts based upon the set number of  
18          officers available to allocate based upon workloads. Those  
19          sorts of projects and endeavors.

20           **Q     Another one of the categories that you listed**  
21          **as part of planning and research was the management of the**  
22          **policies and procedures of the police department; is that**  
23          **correct?**

24           A     Yes.

25           **Q     Is that an area in which your office makes**

1       **recommendations?**

2           A      Sometimes.

3           Q      **So sometimes your office might make a**  
4      **recommendation about what a policy or procedure should**  
5      **include; is that correct?**

6           A      Yes.

7           Q      **Among the policies and procedures that your**  
8      **office manages are the special orders; is that right?**

9           A      Yes.

10          Q      **And when we say that you manage the special**  
11     **orders, what does that mean?**

12          A      That means when changes are formally  
13     incorporated into special orders or when a new special  
14     order is developed, created, that work and the process of  
15     doing all of that can funnel and functions through our  
16     office.

17          Q      **So your office participates in the drafting of**  
18     **special orders or the amending of special orders?**

19          A      Yes.

20          Q      **How do you -- How does your office decide what**  
21     **a special order should include?**

22          A      That will depend on the topic, the issue that  
23     any particular order, policy, is covering. Much of the  
24     work on special orders involves existing orders and  
25     revisions to those orders, and much of the content is

1       really driven by subject matter, experts within a  
2       department. Occasionally there will be a need or request  
3       to kind of examine either model policies, sample policies  
4       from other departments, but by and large a lot of the  
5       content is really derived from subject matter experts who  
6       can tell us what needs to be in the policies and we  
7       essentially manage the writing and kind of construction of  
8       that and disseminate through the review process.

9                   **Q       Where are special orders maintained? Are they**  
10                  **electronic, are they on a computer terminal or are they**  
11                  **hard copies?**

12               A       They are electronically maintained. They are  
13       located for everyone to access in two specific places, one  
14       is on the department's intranet and the other is through  
15       the department's Policy Acknowledgment System with the  
16       acronym PAS.

17               **Q       You anticipated my next question, which is**  
18                  **what is the Policy Acknowledgment System? Is that a kind**  
19                  **of software?**

20               A       Yes, Policy Acknowledgment System is a piece  
21       of software developed by Regis that allows the department  
22       and other departments in the region to distribute  
23       documents, whatever they may be, and get receipt of --  
24       acknowledgment of receipt from the recipients.

25               **Q       So if a decision is made for a document to be**

1 disseminated through the PAS system and, say, I'm the  
2 intended recipient of the document, how do I access that?  
3 What do I see on my interface?

4 A Through the PAS system? You'll get a --  
5 You'll get an e-mail indicating that something has been  
6 changed, added, whatever, in PAS that's available for you  
7 to review and acknowledge in PAS. You would either then be  
8 able to click within the e-mail or use your PAS, you know,  
9 web connection. It's a web-based platform to go into PAS.  
10 Sign in. First page will show unsigned policies or  
11 whatever it may be that was distributed in that fashion.  
12 You review it and then you need to sign for that document.

13 Q Do you sign electronically?

14 A Yes.

15 Q You just type in your name and press okay, is  
16 that what happens?

17 A Yes. Yes. I think it may be a name and  
18 password, but I'm not a hundred percent sure about the  
19 password.

20 Q Does the PAS system ensure that the recipient  
21 reviewed the document that was disseminated?

22 A Does it ensure?

23 Q For example, you have seen probably like if  
24 you're downloading a new app and you have to accept terms,  
25 it makes you scroll down to the end of the terms before you

1       **can click okay. Is there something similar to that in the**  
2       **PAS system?**

3           A      There is a function that requires -- that can  
4       require a test be completed that is only applied to certain  
5       documents within the system; however, the rest you -- your  
6       signed receipt is all that we would get.

7           Q      **And once the document has been opened, you can**  
8       **sign; is that right?**

9           A      You technically could sign without opening a  
10       document.

11          Q      **Okay. Do you decide to send documents through**  
12       **the PAS system or is that someone else who decides that?**

13          A      I would say that that's probably more  
14       accurately described as a command level decision about what  
15       goes through the PAS system. So all special orders go  
16       through the PAS system when they are initially issued or  
17       revised and any other directives are always funneled  
18       through the PAS system. But anything else that is sent  
19       through the PAS system is really a command decision.

20          Q      **Is there a way through the PAS system to send**  
21       **documents to a portion of the department or is it all**  
22       **department, no department?**

23          A      There is a way to send documents to subgroups.

24          Q      **Is that done regularly?**

25          A      Yes.

1                   **Q     Are the subgroups, do those correspond to**  
2                   **units of the force? For example, are the districts**  
3                   **subgroups?**

4                   A     The groupings in the system are based upon  
5                   departments, Microsoft active directory system that IT  
6                   maintains. There are a couple of ad hoc groups that have  
7                   been created for various specialized reasons. I would say,  
8                   though, that the biggest distinction among groups involves  
9                   a set of monthly policies that are disseminated to like  
10                  commission only as opposed to commission and civilian.

11                  **Q     If I understand correctly, the things that are**  
12                  **distributed monthly to commissioned personnel are the**  
13                  **sexual harassment policy, CIT, the use of force policy**  
14                  **statement, is there anything else?**

15                  A     Pursuit policy.

16                  **Q     And pursuit. Are those -- Those are**  
17                  **distributed monthly; is that right?**

18                  A     Yes. There is a monthly summary document that  
19                  is distributed to them, not the entire order, but a summary  
20                  document of, I guess, key topics.

21                  **Q     For each of those four things there is a**  
22                  **separate summary, is that what you're saying?**

23                  A     Yes.

24                  **Q     Are they distributed all in one e-mail, you**  
25                  **know?**

1 A No.

2 Q **It's four different e-mails?**

3 A (Witness nods head affirmatively.)

4 Q **Four different disseminations?**

5 A Yes.

6 Q **And that is all the things that are**

7 **distributed monthly; is that right?**

8 A With regard to special orders?

9 Q **Special orders or directives from command**

10 **staff to commissioned officers.**

11 A Yes, those are the only things distributed

12 through PAS on a regular monthly basis.

13 Q **Do those distributions come with a test?**

14 A Yes.

15 Q **All four of them do?**

16 A Yes.

17 Q **What is the test like?**

18 MS. DUNCAN: Object as to vague. You can

19 answer.

20 A The -- It is a set of either multiple choice

21 questions or dichotomous yes-no set of questions that are

22 presented. A person has to get all the questions correct

23 in order to be able to sign for that document then.

24 Q **(By Ms. Steffan) How many questions are there?**

25 A That varies by policy for those specific ones.

1 I can't remember offhand how many specifically each of them  
2 requires. I believe it might be three a piece.

3 Q Is it fair to say it's somewhere around three?

4 A Yes.

5 Q What happens if a person to whom a document  
6 has been disseminated doesn't sign, doesn't do the test or  
7 doesn't sign?

8 A Commanders are able to run an exception report  
9 for either individuals or for their entire unit to see what  
10 documents have been disseminated through PAS have not been  
11 signed for by particular individuals.

12 Q Have you run an exception report like that?

13 A Yes.

14 Q Do you do that regularly or did you do so at  
15 the request of someone or do you just do it every month or  
16 something?

17 A At the request of people. I will run them  
18 occasionally for my own staff.

19 Q Is there -- When a document is disseminated  
20 through the PAS system, is there a deadline by which the  
21 person needs to acknowledge receipt?

22 A There is no stated deadline in the e-mail or  
23 anywhere else specifically.

24 Q Based on your experience in the unit, do  
25 people generally read the documents in a reasonable time

1 and sign for them?

2 MS. DUNCAN: I'm going to object as  
3 speculation. Subject to that, you can answer.

4 A I really couldn't say on average how quickly  
5 people generally review and acknowledge documents in PAS.

6 Q (By Ms. Steffan) Based on your experience, do  
7 you know if anyone has ever been disciplined for not doing  
8 so?

9 A I am not sure.

10 Q You can't think of an instance right now?

11 A No.

12 Q Do you know the court in this case entered a  
13 preliminary injunction?

14 A Yes.

15 Q Have you read it?

16 A Yes.

17 Q Has it been disseminated through the PAS  
18 system?

19 A No.

20 Q Has anyone requested that your office  
21 disseminate it through the PAS system?

22 A No.

23 Q Have any special orders been amended as a  
24 result of the preliminary injunction?

25 A In this case?

1 Q In this case.

2 A No.

3 Q Has anyone recommended that that happen, to  
4 your knowledge?

5 A Not to my knowledge.

6 Q And no new special orders have gone out as a  
7 result of the preliminary injunction; is that right?

8 A Correct.

9 Q Based on your knowledge of the protests in  
10 September and October of 2017, do you know whether any  
11 special order has been amended or created as a result of  
12 the protests?

13 A No.

14 Q No, you don't know or, no, it hasn't?

15 A No, they have not been.

16 Q Are special orders available to the public?

17 A Yes.

18 Q How would a member of the public view special  
19 order?

20 A Currently via a request to the department or  
21 to the city.

22 Q I'm going to show you a document now.

23 (Baumgartner Deposition Exhibit No. 2 marked  
24 for identification.)

25 Q (By Ms. Steffan) I'll label this Baumgartner

1       **2, Exhibit 2. So you have had a chance to page through**  
2       **those sort of sheets of paper that I have handed you;**  
3       **right?**

4           A      Yes.

5           Q      **Do you recognize all of the pages of the**  
6       **document?**

7           A      Yes.

8           Q      **What is it?**

9           A      It is a declaration about the existence of  
10      these particular orders as of a given date and that they  
11      were distributed -- those orders were distributed by the  
12      PAS system.

13          Q      **And you have seen this declaration before;**  
14       **correct?**

15          A      Yes.

16          Q      **And you signed it; right?**

17          A      Yes.

18          Q      **Do you see anything that is inaccurate or**  
19       **wrong in the declaration?**

20          A      Yes, it all seems to be correct.

21          Q      **And just for clarity, where this declaration**  
22       **says Policy Acknowledgment System, that is the PAS system**  
23       **we have been talking about; right?**

24          A      Yes.

25          Q      **If you could take a look at paragraph five,**

1 Subpart B, which is on the first page. This says use of  
2 force policy statement. Do you see that term in quotes  
3 there?

4 A Yes.

5 Q Is that the summary that you mentioned  
6 earlier?

7 A Yes.

8 Q Who writes the use of force policy statement?

9 MS. DUNCAN: I'm going to object as vague. Do  
10 you mean the portion that is sent out to the monthly?

11 Q (By Ms. Steffan) This says that a use of force  
12 policy statement is sent monthly, and that's true; correct?

13 A Yes.

14 Q Who wrote the use of force policy statement?

15 A Offhand I don't recall.

16 Q Was -- Have there been any changes to the use  
17 of force policy statement since you wrote this declaration?

18 A No.

19 Q The content is the same every month?

20 A Yes.

21 Q Was the statement something written while you  
22 were at your office or did it exist before you arrived?

23 MS. DUNCAN: I'm going to object as vague.

24 What do you mean? When he was in his position as director?

25 Q (By Ms. Steffan) Just since you have been

1       employed by the police department and would have knowledge  
2       of these summaries or policy statements, did they exist  
3       before you got there or did you -- did your office write  
4       them while you were there? I'm trying to figure out where  
5       it came from, this policy statement.

6           A       I don't know when the monthly policy statement  
7       was developed. That was before being in my current  
8       position and well before the dates of the events of this  
9       case.

10          Q       **How long is the policy statement or summary?**

11               MS. DUNCAN: I'm going to object as vague.  
12       Subject to that, you can answer.

13          A       Offhand I don't recall.

14          Q       **(By Ms. Steffan) Is that one page or more than**  
15       **one page?**

16          A       More than a page.

17          Q       **How -- Do you recall how big Special Order**  
18       **1-01 is?**

19               MS. DUNCAN: Objection as to vague. Subject  
20       to that, you can answer.

21          A       1-01 is made up of -- currently made up of 13  
22       sections, separate sections. I can't remember the total  
23       page count.

24          Q       **(By Ms. Steffan) Is it fair to say that the**  
25       **use of force policy statement is considerably shorter than**

1           **Special Order 1-01?**

2           A      Yes.

3           Q      The other three special orders, I think they  
4           are all special orders that are disseminated monthly to  
5           commissioned personnel, they, I think you testified  
6           earlier, also all have summaries; correct?

7           A      Yes.

8           Q      Do you know, not to belabor the point, do you  
9           know who wrote those summaries or when they were written?

10          A      I do not specifically, no.

11          Q      Okay. If you take a look at paragraph six in  
12         your declaration, which again is Exhibit 2. This statement  
13         remains accurate; is that right?

14          A      Yes.

15          Q      Has that temporary directive that is  
16         referenced in this statement been disseminated through the  
17         PAS system ever since January 7th, 2015?

18          A      No.

19          Q      Was there a test attached to it when it was  
20         disseminated?

21          A      No.

22          Q      If you take a look at paragraph eight. If I  
23         read this correctly, this is saying the temporary directive  
24         became a section of Special Order 1-01; is that correct?

25          A      Content of that temporary directive became

1 part of Section 13 of Special Order 1-01.

2 Q Okay. Has Section 13 of Special Order 1-01  
3 been disseminated ever?

4 A Yes.

5 Q I see that there are references to  
6 disseminations in paragraph 10 here in October of 2016 and  
7 August of 2017. Other than those two times, has Section 13  
8 been disseminated?

9 A Yes.

10 Q When has it been disseminated?

11 A When it was originally created July of 2015 as  
12 in paragraph eight.

13 Q Okay. Other than those three times, has it  
14 been disseminated?

15 A No.

16 Q If you look at paragraph 11, it references  
17 Special Order 1-06 titled recording of police activity?

18 A Yes.

19 Q Was that disseminated through the PAS system?

20 A Yes.

21 Q Is that when it was created in November of  
22 2013?

23 A Yes.

24 Q Has it been disseminated through the PAS  
25 system since then?

1           A     I don't know offhand if it had been. It would  
2     depend on whether it had been revised since then, which I  
3     don't think it has been.

4           Q     **If it has not been revised, it would not have**  
5     **been disseminated; is that correct?**

6           A     Not necessarily.

7           Q     **There is other information you would need to**  
8     **know in order to decide if it had been disseminated, is**  
9     **that what you're saying?**

10          A     It's -- Yes. It could be possible that a  
11     portion of an order might be sent out as a reminder to  
12     somebody to staff, but the order itself as a whole has not  
13     been redisseminated.

14          Q     **Do you know if anything was disseminated**  
15     **through the PAS system as a result of the Stockley verdict**  
16     **protests?**

17          A     I am not aware of anything being disseminated.

18          Q     **We have talked a little bit the four things**  
19     **that are monthly to commissioned personnel. Who decided**  
20     **that those things would be disseminated every month?**

21          A     I don't know.

22          Q     **Do you know when that started, that monthly**  
23     **dissemination system?**

24          A     I don't. I can only say that it would have  
25     been sometime after 2006.

1                   **Q     Is that when the software became available?**

2                   A     Started using PAS in 2006.

3                   **Q     Have you or your staff ever recommended that**  
4     **other things be disseminated monthly? Directives?**  
5     **Anything?**

6                   A     There have been some suggestions of other  
7     documents being disseminated via PAS as a way to document  
8     their distribution and receipt by staff.

9                   **Q     Are any of the documents that have been**  
10     **suggested to be disseminated on a monthly basis related to**  
11     **protests or the First Amendment?**

12                  A     Yes. Yes.

13                  **Q     What documents?**

14                  A     A reminder message, reminder notice was  
15     disseminated regarding interactions with journalists. I  
16     can't remember exactly when that occurred. I want to say  
17     it was sometime in 2017, earlier in 2017, and it was -- I  
18     think it stemmed from an agreement between the city and an  
19     individual or set of individuals. But it was not one of  
20     these orders that are part of this declaration. It was not  
21     a segment of one of those orders.

22                  **Q     Was it something that was -- became like a**  
23     **permanent guideline or just a reminder message like "hey"?**

24                  A     It was a reminder of a statement made in  
25     another order.

1           Q     **In a police department order or court order?**

2           A     Yes.

3           Q     **Police department order?**

4           A     Yes.

5           Q     **Other than -- Well, let me back up. That was**  
6     **disseminated one time; correct, but not regularly, not**  
7     **monthly or something like that?**

8           A     I think just once.

9           Q     **Other than that reminder notice, have other**  
10     **documents been suggested to be disseminated relate to**  
11     **protests or to the First Amendment?**

12          A     Not that I recall.

13          Q     **If I understand your declaration correctly,**  
14     **the temporary directive of the court itself was**  
15     **disseminated through the PAS system; right? The court**  
16     **order that was disseminated; is that right?**

17          A     I'm sorry?

18          Q     **Looking at paragraph six, which incorporates I**  
19     **guess Exhibit B, this what is reflected here in Exhibit B,**  
20     **this is what a person to whom that was disseminated would**  
21     **see on their screen, it would look just like this?**

22          A     Yes, this is -- this is the directive that was  
23     disseminated.

24          Q     **Got it.**

25          A     Following the restraining order.

1                   **Q       Okay. Forgive me if I have asked you this**  
2                   **already, but who decided that this would be disseminated?**

3                   A       Chief of police as indicated on the top left  
4                   corner of that directive would have authorized and chosen  
5                   to disseminate through the agreement through the PAS  
6                   system.

7                   **Q       Was that decision based on the recommendation**  
8                   **of anyone else or did it originate with the chief?**

9                   A       I don't remember anything specific to  
10                  recommendations regarding it being disseminated in any  
11                  particular way, but all directives are disseminated in this  
12                  fashion.

13                  **Q       What's the difference between a directive and**  
14                  **a special order?**

15                  A       Directive really means a temporary directive,  
16                  something that needs to be put in to place quickly and not  
17                  necessarily go through the review process and more lengthy  
18                  process that an order would often take to develop and  
19                  write. Usually the assumption is that at some point the  
20                  content of that directive will be incorporated into a  
21                  special order down the road.

22                  **Q       Is there something more permanent than a**  
23                  **special order?**

24                  A       No.

25                  **Q       And that's what happened with this directive,**

1       **it was incorporated into the text of a special order?**

2           A      Yes.

3           Q      **Did your office audit the PAS system to ensure**  
4      **that it's working correctly?**

5           A      Explain what you mean by working correctly.

6           Q      **Do you -- I mean, are there glitches in the**  
7      **software ever?**

8           A      In terms of its recording of receipt and  
9      acknowledgment, no.

10          Q      **And do you -- You said the PAS system was**  
11     **created by Regis; right?**

12          A      Yes.

13          Q      **And it's used by multiple police departments?**

14          A      Yes.

15          Q      **And a police department has to show that their**  
16     **officers are aware of certain policies for the purpose of**  
17     **accreditation; is that right?**

18          A      That is one reason departments may be using  
19     it.

20          Q      **So you use the PAS system to demonstrate that**  
21     **officers know about things when you are seeking**  
22     **reaccreditation through CALEA; correct?**

23          A      That is one of the ways, yes.

24          Q      **Do you -- So putting aside like a software**  
25     **audit, do you run an exception report or something to show**

1       **that officers actually did acknowledge a policy when you**  
2       **are seeking reaccreditation?**

3           A      I think those reports can be run for the  
4       purpose of accreditation, but they aren't necessarily run  
5       on any regular interval for that sake.

6           Q      Okay. If I could ask you to look at the page  
7       **that has Defendant's Exhibit C written on the bottom**  
8       **right-hand corner.**

9           A      Uh-huh (yes). Yes.

10          Q      This is the first page of Section 13 of  
11       **Special Order 1-01; is that right?**

12          A      Yes.

13          Q      Did you participate in the drafting of this  
14       **special order?**

15          A      Yes.

16          Q      To the best of your knowledge, is it still  
17       enforced now?

18          A      To the best of my knowledge it is.

19          Q      Okay. Do you see anything in this special  
20       order that you think is problematic or inappropriate?

21          A      No.

22          Q      Has anyone to whom you report or your office  
23       works with told you that they think that there is anything  
24       in this special order that is either problematic or  
25       inappropriate?

1 A No.

2 Q What about -- I would ask you to turn to  
3 Defendant's Exhibit D, which is the beginning of Special  
4 Order 1-06. Did you participate in the drafting of this  
5 policy?

6 A No.

7 Q Do you know what it says? I mean, are you  
8 generally familiar with what it says?

9 A Generally.

10 Q Do you think there is anything inappropriate  
11 or problematic about it?

12 A Not that I'm aware of.

13 Q Based on your familiarity with the content of  
14 the department's special orders, did you see or hear of  
15 anything that happened during the police response to the  
16 Stockley protests that you thought did not comply with the  
17 special orders?

18 MS. DUNCAN: I'm going to object as  
19 speculation. Lack of foundation. Subject to that, you can  
20 answer.

21 A No.

22 MS. STEFFAN: I think that's all I have. If  
23 you don't have any questions, I would ask for a second just  
24 to check through my notes. But if you do have questions,  
25 go ahead.

1 MS. DUNCAN: Could we take a quick break, just  
2 like five minutes?

3 (Whereupon, a short break was taken.)

4 EXAMINATION

5 QUESTIONS BY MS. DUNCAN:

6 Q You were asked by counsel whether the  
7 preliminary injunction order was disseminated through PAS  
8 and I believe you answered no to that; is that correct?

9 A The preliminary injunction for the Ahmad case?

10 Q Yes.

11 A Yes.

12 Q Was it distributed -- Was the preliminary  
13 injunction in Ahmad distributed?

14 A Yes.

15 MS. DUNCAN: That's the only follow-up.

16 EXAMINATION

17 QUESTIONS BY MS. STEFFAN:

18 Q How was it distributed?

19 A By the acting chief of police through e-mail  
20 department-wide.

21 Q As an attachment?

22 A The injunction was attached, yes.

23 Q Did you receive that e-mail?

24 A Yes.

25 Q Was there text in the e-mail or was there just

1       **an --**

2           A     There was text in the e-mail.

3           **Q     Do you recall what it said?**

4           A     Not clearly enough to be able to state it  
5       here.

6           **Q     Do you know how long the text of the e-mail  
7       was?**

8                   MS. DUNCAN: Object as to vague. Subject to  
9       that, you can answer.

10          A     A few sentences.

11          **Q     (By Ms. Steffan) Do you recall when that was  
12       disseminated through e-mail?**

13          A     I don't.

14          **Q     Did you read it at that time?**

15          A     Yes.

16          **Q     Did you do anything differently in your work  
17       as a result of having read that preliminary injunction?**

18          A     No.

19          **Q     Do you think the injunction was applicable to  
20       your office's work?**

21                   MS. DUNCAN: I'm going to object as to vague.  
22       Subject to that, you can answer.

23          A     Applicable in a sense that the subject area  
24       content may come back to us for some type of policy work  
25       eventually.

1                   Q     (By Ms. Steffan) Did you discuss the  
2     preliminary injunction with anyone after you received it  
3     from the chief via e-mail?

4                   A     No.

5                   Q     You didn't propose any special order  
6     amendments or other policy changes as a result of the  
7     preliminary injunction; is that correct?

8                   A     Yes.

9                   Q     To your knowledge, did anyone in your office  
10   propose any changes to policies or special orders as a  
11   result of the preliminary injunction from the Ahmad case?

12                  A     No.

13                  Q     To your knowledge, they did not?

14                  A     To my knowledge, they did not.

15                  MS. STEFFAN: That's all I have.

16                  MS. DUNCAN: I have no questions. Sir, you  
17   can either waive your signature or read, which entails  
18   waiting until the transcript is written out and then you  
19   can look over it and make sure all of your answers are  
20   correct. If there is any typos, you need to correct or you  
21   can waive your signature. In this case, I would suggest  
22   that you read it.

23                  THE WITNESS: I will read it.

24                  MS. STEFFAN: A PDF, that's all I need.

25                  MS. DUNCAN: Etrans with the exhibits.

1 (Deposition was adjourned at 2:31 p.m.)

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CERTIFICATE OF REPORTER

1 I, Jamie Jo Kinder, CCR No. 842, CSR No.  
2 084.003306, do hereby certify that the witness whose  
3 testimony appears in the foregoing deposition was duly  
4 sworn by me; that the testimony of said witness was taken  
5 by me to the best of my ability and thereafter reduced to  
6 typewriting under my direction; that I am neither counsel  
7 for, related to, nor employed by any of the parties to the  
8 action in which this deposition was taken, and further that  
9 I am not a relative or employee of any attorney or counsel  
10 employed by the parties thereto, nor financially or  
11 otherwise interested in the outcome of the action.

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Certified Court Reporter

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1 ALARIS LITIGATION SERVICES

2 January 3, 2019

3 Ms. Abby Duncan  
St. Louis City Counselor's Office  
4 1200 Market, City Hall, Room 314  
St. Louis, MO 63103

5 IN RE: MALEEHA AHMAD, et al. v. CITY OF ST. LOUIS,  
6 MISSOURI

7 Dear Ms. Duncan,

8 Please find enclosed your copies of the deposition of  
JEROME BAUMGARTNER taken on December 19, 2018 in the  
9 above-referenced case. Also enclosed is the original  
signature page and errata sheets.

10

11 Please have the witness read your copy of the  
transcript, indicate any changes and/or corrections  
12 desired on the errata sheets, and sign the signature  
13 page before a notary public.

14

15 Please return the errata sheets and notarized  
signature page within 30 days to our office at 711 N  
16 11th Street, St. Louis, MO 63101 for filing.

17

18 Sincerely,

19

20

21 Jamie Jo Kinder, CCR, CSR

22

23 63623



1 STATE OF \_\_\_\_\_)

2

3 COUNTY OF \_\_\_\_\_)

4

5 I, JEROME BAUMGARTNER, do hereby certify:

6 That I have read the foregoing deposition;

7 That I have made such changes in form

8 and/or substance to the within deposition as might

9 be necessary to render the same true and correct;

10 That having made such changes thereon, I  
11 hereby subscribe my name to the deposition.

12 I declare under penalty of perjury that the  
13 foregoing is true and correct.

14 Executed this \_\_\_\_\_ day of \_\_\_\_\_,  
15 20\_\_\_\_, at \_\_\_\_\_.

16

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18

19

20 \_\_\_\_\_  
JEROME BAUMGARTNER

21

22

23 NOTARY PUBLIC

24 My Commission Expires:

25

A				
Abby 4:9 47:3	10:13	answered 42:8	42:21	biggest 25:8
ability 6:20 46:5	agency 9:23	answering 6:6	attempting 10:8	bit 35:18
able 23:8 26:23 27:8 43:4	agent 20:12	answers 44:19	attorney 7:9	bottom 40:7
above-refere ... 47:9	ago 7:1	anticipated 22:17	46:9	break 6:14,14,16 42:1,3
academic 8:25 9:8	AGREED 5:2	app 23:24	attorneys 5:17	brief 12:14,16
academy 10:15 11:2	agreement 36:18 38:5	appears 13:12	audit 39:3,25	broad 9:22
accept 23:24	ahead 13:1 41:25	46:3	August 34:7	
access 22:13 23:2	Ahmad 1:6 3:4 3:19 5:18 42:9 42:13 44:11 47:5 48:2	applicable 43:19,23	authorized 38:4	C
accreditation 10:11,12,13,14 11:1 39:17 40:4	air 6:15	applied 24:4	available 17:24	C 4:1 40:7
accurate 13:13 33:13	al 1:6 3:4,19 47:5 48:2	apply 9:7 10:19	20:18 23:6	CALEA 10:13
accurately 24:14	ALARIS 4:14 47:1	approximate 16:2	29:16 36:1	11:2 39:22
acknowledge 23:7 27:21 28:5 40:1	alcohol 6:20	area 8:25 9:1 10:17 20:25	average 28:4	call 9:25 13:1
acknowledg... 22:15,18,20 22:24 30:22 39:9	allocate 19:18 20:18	43:23	aware 35:17	19:6
acronym 22:16	allocated 19:15 19:16,19 20:3	areas 9:22 10:16	39:16 41:12	call-taker 20:12
acting 13:18 42:19	allocation 10:4 19:14 20:1,16	arothert@aclu... 4:5		called 11:18 15:9
action 46:8,11	allows 22:21	arrangement 12:3 18:14,17	B 31:1 37:19,19	15:10
active 25:5	amended	arrived 31:22	B-A-U-M-G-A- ... 5:21	calls 10:9 20:13
activities 17:20	28:23 29:11	aside 39:24	back 8:15 16:12	20:14
activity 34:17	amending 21:18	asked 6:9 38:1 42:6	37:5 43:24	Capital 9:4
ad 17:10,11 25:6	Amendment 36:11 37:11	asking 17:17	background 7:20 9:15	career 8:25
added 23:6	amendments 44:6	aspects 11:1	18:23	case 5:23,24
adjourned 45:1	AMERICAN 4:3	assessment 9:2 10:5,6 19:22	based 20:17,18 25:4 27:24	7:18 28:12,25
affect 6:20	amount 19:23 19:24	assessments 8:22	28:6 29:9	29:1 32:9
affirmatively 26:3	analyses 10:5	assigned 15:11	38:7 41:13	42:9 44:11,21
afternoon 3:12 5:14	analysis 10:1,2	assignment 15:14,15	basis 9:18 11:23 15:9 17:5,22	47:9 48:2
age 5:10	analytic 9:12	assistant 12:15 13:16,17,25	26:12 36:10	categories 20:20
agencies 9:3	and/or 47:12 49:8	14:8,10,13 18:10	Baumgartner 1:15 2:8,9 3:10 5:4,9,14,20	cause 1:7 3:5,17
	annual 10:7 17:23	assume 6:10 8:18	13:1,3 29:23 29:25 47:8 48:1 49:5,20	CCR 1:19 3:15 4:14 5:5 46:1
	answer 6:7 26:19 28:3 32:12,20 41:20 43:9,22	assumption 38:19	beginning 41:3	47:23
		attached 33:19 42:22	behalf 1:15 5:11	certain 3:17 24:4 39:16
		attachment	behavioral 9:14	CERTIFICATE 45:25
			belabor 33:8	Certified 3:16 46:14
			believe 13:18	certify 46:2 49:5
			14:7 27:2 42:8	chain 13:22 chance 30:1
			best 40:16,18 46:5	change 14:15 48:7,11,15,19 48:23
			better 18:4	changed 14:25 23:6
			big 11:5 32:17	

JEROME BAUMGARTNER 12/19/2018

changes 21:12 31:16 44:6,10 47:12 49:7,10	18:1 24:14,19 26:9	40:8 correct 8:1,2 19:12 20:23 21:5 26:22 29:8 30:14,20 31:12 33:6,24 35:5 37:6 39:22 42:8 44:7,20,20 49:9,13	32:21 <hr/> <b>D</b> D 2:1 41:3 D.C 9:5 data 10:2,21 19:19 date 12:8,9 30:10 48:3 dated 13:10 dates 32:8 day 3:11,13 49:14 day-to-day 9:18 17:5,6 days 47:17 deadline 27:20 27:22	17:23 20:22 22:2,21 24:21 24:22,22 29:20 32:1 37:1,3 39:15 <b>department's</b> 10:12 22:14,15 41:14 <b>department-</b> ... 42:20 <b>departments</b> 9:20 22:4,22 25:5 39:13,18 <b>depend</b> 21:22 35:2 <b>deposed</b> 5:22 <b>deposes</b> 5:11 <b>deposition</b> 1:15 2:8,9 3:10 5:1 5:4 6:1,24 7:6 13:3 29:23 45:1 46:3,8 47:8 49:6,8,11 <b>derived</b> 22:5 <b>described</b> 11:1 24:14 <b>desired</b> 47:13 <b>detached</b> 15:8 15:9,10,14,19 16:14,19 <b>determining</b> 19:15 <b>develop</b> 38:18 <b>developed</b> 21:14 22:21 32:7 <b>dichotomous</b> 26:21 <b>difference</b> 38:13 <b>different</b> 18:18 18:19 19:1,6 26:2,4 <b>differently</b> 43:16 <b>direction</b> 46:6 <b>directive</b> 33:15
<b>characteristics</b> 9:5	<b>commander</b> 18:4,13	<b>Commanders</b> 27:8	<b>corrections</b> 47:12	
<b>chart</b> 13:8,10,14 13:21 18:16,17	<b>commenced</b> 5:1	<b>correctly</b> 12:6	<b>Dear</b> 47:7	
<b>charts</b> 12:24	<b>commission</b> 10:12 25:10,10	25:11 33:23	<b>December</b> 1:16	
<b>check</b> 41:24	49:24	37:13 39:4,5	3:11 12:7 47:8	
<b>checking</b> 17:7 17:10	<b>commissioned</b> 7:25 15:13,19	<b>correspond</b> 25:1	48:3	
<b>chief</b> 12:5,15 13:16,17,25 14:8,10,13,19 15:1,18:9,9,10 18:22 38:3,8 42:19 44:3	15:25 16:13,18	<b>counsel</b> 5:3,3	<b>decide</b> 21:20	
<b>chief's</b> 14:7 18:12 19:2	17:21 25:12	7:8 42:6 46:6	24:11 35:8	
<b>chiefship</b> 14:22	26:10 33:5	46:9	<b>decided</b> 35:19	
<b>choice</b> 26:20	35:19	<b>Counselor's</b> 4:9	38:2	
<b>chosen</b> 38:4	<b>commissioner</b> 13:19	47:3	<b>decides</b> 24:12	
<b>CIT</b> 25:13	<b>communicati</b> ...	<b>count</b> 32:23	<b>decision</b> 14:15	
<b>city</b> 1:9 3:7,14 3:20 4:9,10 5:18 8:17 29:21 36:18 47:3,4,5 48:2	10:15 11:2	<b>COUNTY</b> 49:3	14:18,20 19:17	
<b>CIVIL</b> 4:3	20:11	<b>couple</b> 6:4 13:7	19:18 22:25	
<b>civilian</b> 8:3 15:23 16:1,5 25:10	<b>completed</b> 24:4	18:7 25:6	24:14,19 38:7	
<b>clarify</b> 6:10	<b>comply</b> 41:16	<b>court</b> 1:1 3:1,16	<b>declaration</b> 7:1	
<b>clarity</b> 30:21	<b>comprises</b> 9:23	3:18 4:13 6:5	30:9,13,19,21	
<b>clearly</b> 43:4	<b>computer</b> 22:10	28:12 37:1,14	31:17 33:12	
<b>click</b> 23:8 24:1	<b>connection</b> 23:9	37:15 46:14	36:20 37:13	
<b>coded</b> 10:21	<b>considerably</b> 32:25	<b>covering</b> 11:23	<b>declare</b> 49:12	
<b>Colonel</b> 12:15,19 13:15 14:11	<b>construction</b> 22:7	21:23	<b>Defendant</b> 1:10	
<b>come</b> 9:13,13 18:13,14,25 20:13 26:13 43:24	<b>consulting</b> 8:14	<b>created</b> 13:14	3:8,21 4:8 5:3	
<b>comes</b> 20:12	<b>contactors</b> 9:6	21:14 25:7	<b>Defendant's</b> 40:7 41:3	
<b>coming</b> 18:12	<b>contacts</b> 9:6	29:11 34:11,21	degree 8:19	
<b>command</b> 10:2 13:22 17:13,21	<b>content</b> 21:25	39:11	<b>demonstrate</b> 39:20	
	22:5 31:19	<b>crime</b> 10:18,19	<b>department</b> 7:15 8:4,7,17	
	33:25 38:20	11:3	10:3 11:12,17	
	41:13 43:24	<b>CSR</b> 1:19 3:15	12:5 17:13,21	
	<b>continuously</b> 8:9	4:14 5:5 46:1		
	<b>conversation</b> 19:6	47:23		
	<b>convey</b> 18:5	<b>current</b> 9:11 14:5		
	<b>copies</b> 22:11	14:19 18:14,16		
	47:8	32:7		
	<b>copy</b> 47:11	<b>currently</b> 11:25		
	<b>corner</b> 38:4	12:1,3 15:4,5		
		17:1 29:20		

JEROME BAUMGARTNER 12/19/2018

33:23,25 37:14,22 38:4 38:13,15,15,20 38:25 <b>directives</b> 24:17 26:9 36:4 38:11 <b>directly</b> 14:6 18:9,12,15 19:1 <b>director</b> 9:16 31:24 <b>directory</b> 25:5 <b>disciplined</b> 28:7 <b>discuss</b> 44:1 <b>disseminate</b> 22:8 28:21 38:5 <b>disseminated</b> 23:1,21 25:9 27:6,10,19 28:17 33:4,16 33:20 34:3,8 34:10,14,19,24 35:5,8,14,17 35:20 36:4,7 36:10,15 37:6 37:10,15,16,20 37:23 38:2,10 38:11 42:7 43:12 <b>dissemination</b> 35:23 <b>disseminations</b> 26:4 34:6 <b>dissertation</b> 8:18 <b>dissertations</b> 8:16 <b>distinct</b> 9:24 <b>distinction</b> 25:8 <b>distribute</b> 22:22 <b>distributed</b> 23:11 25:12,17 25:19,24 26:7 26:11 30:11,11	42:12,13,18 <b>distribution</b> 36:8 <b>distributions</b> 26:13 <b>District</b> 1:1,1 3:1,1 3:18,18 <b>districts</b> 20:17 25:2 <b>Division</b> 1:2 3:2 3:19 <b>doctorate</b> 7:21 8:11,19 <b>document</b> 12:22,23 22:25 23:2,12 23:21 24:7,10 25:18,20 26:23 27:5,19 29:22 30:6 36:7 <b>documents</b> 6:25 22:23 24:5,11,21,23 27:10,25 28:5 36:7,9,13 37:10 <b>Dodson</b> 18:9 <b>doing</b> 8:15 17:8 18:1,5 21:15 28:7 <b>downloading</b> 23:24 <b>drafting</b> 21:17 40:13 41:4 <b>driven</b> 22:1 <b>drugs</b> 6:19 <b>due</b> 17:1 <b>duly</b> 46:3 <b>Duncan</b> 2:5 4:9 7:8 17:14 26:18 28:2 31:9,23 32:11 32:19 41:18 42:1,5,15 43:8 43:21 44:16 44:25 47:3,7	<b>duties</b> 10:25 11:5 14:25 <b>duty</b> 17:1  <b>E</b> <b>E</b> 2:1 4:1,1 <b>e-mail</b> 17:9 19:6 23:5,8 25:24 27:22 42:19 42:23,25 43:2 43:6,12 44:3 <b>e-mails</b> 26:2 <b>earlier</b> 5:16 19:10 31:6 33:6 36:17 <b>earn</b> 8:11 <b>Eastern</b> 1:1,2 3:1 3:2,18,19 <b>educational</b> 7:20 <b>effective</b> 12:9 <b>eight</b> 33:22 34:12 <b>either</b> 20:9 22:3 23:7 26:20 27:9 40:24 44:17 <b>electronic</b> 22:10 <b>electronically</b> 22:12 23:13 <b>Eleventh</b> 4:15 <b>employed</b> 32:1 46:7,10 <b>employee</b> 8:3 46:9 <b>employees</b> 15:23 <b>employment</b> 8:6 11:16 <b>enclosed</b> 47:8 47:9 <b>encompasses</b> 11:7 <b>endeavors</b> 20:19 <b>enforced</b> 40:17	<b>enforcement</b> 9:3 10:13,15 <b>ensure</b> 23:20 23:22 39:3 <b>entails</b> 44:17 <b>entered</b> 28:12 <b>entire</b> 25:19 27:9 <b>Eric</b> 12:4 <b>errata</b> 47:9,13 47:16 48:1 <b>essentially</b> 8:22 10:25 11:19,22 17:3 22:7 <b>et</b> 1:6 3:4,19 47:5 48:2 <b>Etrans</b> 44:25 <b>event</b> 20:1 <b>events</b> 7:18 32:8 <b>eventual</b> 10:22 <b>eventually</b> 43:25 <b>exactly</b> 12:20 16:3,9 36:16 <b>EXAMINATION</b> 2:3 5:12 42:4 42:16 <b>examine</b> 20:10 22:3 <b>examined</b> 3:11 5:10 9:5 <b>example</b> 17:22 20:11 23:23 25:2 <b>exception</b> 27:8 27:12 39:25 <b>exclude</b> 15:25 <b>Executed</b> 49:14 <b>executive</b> 10:1 <b>Exhibit</b> 2:8,9,15 13:2,3 29:23 30:1 33:12 37:19,19 40:7 41:3 <b>exhibits</b> 2:7 44:25	<b>exist</b> 31:22 32:2 <b>existence</b> 30:9 <b>existing</b> 11:20 21:24 <b>experience</b> 27:24 28:6 <b>experts</b> 22:1,5 <b>Expires</b> 49:24 <b>Explain</b> 39:5 <b>expressly</b> 5:7 <b>extended</b> 11:22  <b>F</b> <b>factors</b> 20:14 <b>fair</b> 6:11 14:22 27:3 32:24 <b>fall</b> 16:5,8 <b>familiar</b> 41:8 <b>familiarity</b> 41:13 <b>far</b> 13:20 <b>fashion</b> 23:11 38:12 <b>FBI</b> 10:19,19 <b>federal</b> 9:6 10:23 <b>feel</b> 12:10 <b>female</b> 16:23 <b>figure</b> 32:4 <b>filling</b> 47:18 <b>financially</b> 46:10 <b>find</b> 18:3 47:8 <b>fine</b> 6:14 16:3 <b>first</b> 11:15 23:10 31:1 36:11 37:11 40:10 <b>five</b> 30:25 42:2 <b>focused</b> 19:22 <b>focuses</b> 9:25 <b>follow-up</b> 42:15 <b>Following</b> 37:25 <b>force</b> 25:2,13 31:2,8,11,14,17 32:25 <b>foregoing</b> 46:3 49:6,13
--	---	--	--	---

forenoon 3:13	groupings 25:4	30:18	19:16	40:16,18 44:9
Forgive 38:1	groups 25:6,8	inappropriate 40:20,25	involves 21:24	44:13,14
form 49:7	guess 25:20	41:10	25:8	<hr/>
formal 17:7	37:19	incident 20:1	issue 7:18 21:22	L
formally 21:12	guideline 36:23	include 21:5,21	issued 24:16	
foundation	<hr/> <b>H</b>	including 11:2	<hr/> <b>J</b>	
41:19	Hall 3:14 4:10	15:6,8	J-E-R-O-M-E	
four 25:21 26:2	47:4	incorporated 21:13 38:20	5:20	
26:4,15 35:18	handed 30:2	39:1	Jamie 1:19 3:15	
frequently	handle 19:23	incorporates 37:18	4:14 5:5 46:1	
18:25 20:12	hanging 6:15	incorrect 13:21	47:23	
front 13:6	happen 29:3	indicate 47:12	January 12:10,11	
function 18:18	happened 9:4	indicated 38:3	33:17 47:2	
24:3	38:25 41:15	indicating 23:5	Jerome 1:15	
functions 19:24	happening 12:10	individual 10:6	3:10 5:4,9,20	
21:15	happens 19:21	20:6 36:19	47:8 48:1 49:5	
funnel 21:15	23:16 27:5	information 27:9	49:20	
funneled 24:17	harassment 25:13	27:11 36:19	Jessie 4:3 5:16	
further 46:8	hard 22:11	information 18:5 35:7	Jo 1:19 3:15 4:14	
<hr/> <b>G</b>	Hayden 15:1	infrequently 20:8,9	5:5 46:1 47:23	
gathering 19:19	head 6:8 11:8	initially 8:14	job 8:16 9:8,11	
generally 6:1 9:1	26:3	24:16	journalists 36:15	
27:25 28:5	headquarters 19:8	injunction 28:13	July 8:8 34:11	
41:8,9	Health 8:17	28:24 29:7	<hr/> <b>K</b>	
getting 15:13	hear 41:14	42:7,9,13,22	keep 13:5	
give 17:20,25	held 7:17 11:19	43:17,19 44:2	key 25:20	
given 19:24,25	Hello 5:15	44:7,11	kind 9:24 10:1,7	
20:13,15 30:10	help 17:2	instance 28:10	18:22,24	
glitches 39:6	hey 36:23	intended 23:2	19:23 22:3,7	
go 6:4,16 13:1	hire 12:8,8	interact 17:4	22:18	
23:9 24:15	hired 11:21 12:5	interactions 36:15	Kinder 1:19 3:15	
38:17 41:25	hoc 17:10,11	interest 8:25	4:14 5:5 46:1	
goal 10:9	25:6	9:1	47:23	
goes 13:20	home 8:15 15:14	interested 46:11	know 10:4,8,8	
24:15	host 10:4 19:6	interface 23:3	14:3,12,18,20	
going 5:18 9:25	hours 3:12	interim 11:23	18:21 23:8	
12:22 13:6	hundred 23:18	interval 40:5	25:25 28:7,12	
28:2 29:22	<hr/> <b>I</b>	intervals 20:15	29:10,14 32:6	
31:9,23 32:11	identification 13:4 29:24	intranet 22:14	33:8,9 35:1,8	
41:18 43:21	Illinois 3:15	introduced 5:16	35:14,21,22	
Good 5:14	inaccurate	inventorying	39:21 41:7	
gotten 16:6			43:6	
government			knowledge 29:4,5,9 32:1	
10:23			37:21 40:6	
graduate 9:3			44:19	
ground 6:4				

JEROME BAUMGARTNER 12/19/2018

looked 6:25 20:16	10:8	22:2 23:12 35:7 44:20,24	18:1,4,6,10,12 19:3,10,17	30:10,11 33:3 33:4 36:20,21
Looking 37:18	17:19	needs 20:11 22:6 27:21 38:16	20:2,25 21:3 21:8,16,17,20 28:20 31:22	41:14,17 44:10 organizational 12:24 14:5,16 18:16,18
looks 12:23 13:21	medical 11:21 17:2	neither 46:6 new 12:5 21:13 23:24 29:6	32:3 39:3 40:22 44:9 47:3,17	original 47:9 originally 7:23 34:11
lot 16:10 18:11 22:4	medication 6:19 meeting 17:9 member 29:18 mentioned 31:5 message 36:14 36:23	nods 26:3 North 4:15 notarized 47:16 notary 5:5 47:14 49:23	office's 43:20 officer 8:1 10:6 16:21 officers 15:25 16:13,18 20:17	originate 38:8 outcome 46:11  <b>P</b>
Louis 1:9 3:7,13 3:14,20 4:4,9 4:10,15 5:18 8:15,17 47:3,4 47:5,18 48:2	Microsoft 25:5 mid 12:11 minutes 42:2 Missouri 1:1,9 3:1,7,15,17,18 3:20 4:3 7:23 47:6 48:2	notes 41:24 notice 36:14 37:9	20:18 26:10 39:16,21 40:1	
lower 11:13,14	MO 3:14 4:4,10 4:15 47:4,18	November 34:21	officials 8:23 okay 6:12 12:12 13:20 15:18,22	
 <b>M</b>	model 22:3	number 9:3 11:19 16:3 18:6	17:19 23:15 24:1,11 33:11 34:2,13 38:1 40:6,19	
main 10:25 11:5 19:11	month 27:15 31:19 35:20	19:1 20:13,17	old 7:12	
maintained 22:9,12	monthly 25:9,12 25:17,18 26:7 26:12 31:10,12 32:6 33:4	 <b>O</b>	Olive 4:4 once 24:7 37:8	
maintains 25:6	MO 3:14 4:4,10 4:15 47:4,18	number 9:3 11:19 16:3 18:6	ones 26:25 opened 24:7 opening 24:9 opportunities 9:2	
major 12:4,4,12 14:1,3,6,13 17:4 17:8 18:15,19	model 22:3	object 17:14 26:18 28:2 31:9,23 32:11 41:18 43:8,21	opposed 25:10 order 21:14,21 21:23 25:19	
making 19:17,17	month 27:15 31:19 35:20	Objection 32:19 occasionally 15:13 22:2 27:18	26:23 29:11,19 32:17 33:1,24	
MALEEEHA 1:6 3:4,19 47:5 48:2	months 7:1 8:16 moved 18:6,9 multiple 26:20 39:13	occurred 36:16 October 16:13 29:10 34:6	34:1,2,17 35:8 35:11,12 36:25	
manage 10:2 21:10 22:7	 <b>N</b>	offhand 27:1 31:15 32:13 35:1	37:1,1,3,16,25 38:14,18,21,23	
managed 10:14	N 2:1 4:1 47:17 name 5:19 23:15,17 48:1 48:2 49:11	office 4:9 10:24 11:6,8 12:13 13:20 14:7,12	39:1 40:11,14 40:20,24 41:4 42:7 44:5	
management 10:1 20:21	narrow 9:21 Nebraska 7:22	necessarily 35:6 38:17 40:4	orders 21:8,11,13 21:18,18,24,24	
manager 7:16 9:17 11:20	necessary 19:23 49:9	14:25 15:3,22 16:2,6,14 17:4	21:25 22:9 24:15 26:8,9	
manages 21:8	need 6:14 20:10	17:8,12,20,24	28:23 29:6,16	
marked 13:3 29:23				
Market 3:14 4:10 47:4				
master 7:21				
matter 22:1,5				
mean 9:19 21:11 31:10,24 39:5 39:6 41:7				
means 21:12 38:15				
measurement				

JEROME BAUMGARTNER 12/19/2018

34:19,24 35:15 36:2,7 37:15 38:5 39:3,10,20 42:7 <b>password</b> 23:18 23:19 <b>PDF</b> 44:24 <b>penalty</b> 49:12 <b>pending</b> 3:17 <b>people</b> 8:15 27:17,25 28:5 <b>percent</b> 23:18 <b>performance</b> 10:5,6,7 <b>period</b> 12:14 13:17 <b>periodically</b> 20:15,16 <b>periods</b> 12:16 <b>perjury</b> 49:12 <b>permanent</b> 15:12 36:23 38:22 <b>person</b> 13:24 26:22 27:5,21 37:20 <b>personnel</b> 25:12 33:5 35:19 <b>phone</b> 19:5 <b>piece</b> 22:20 27:2 <b>place</b> 38:16 <b>placed</b> 18:18 <b>places</b> 22:13 <b>Plaintiff</b> 1:15 <b>Plaintiffs</b> 1:7 3:5 3:20 4:2 5:3 5:11 <b>plaintiffs'</b> 5:17 <b>planner</b> 11:18 <b>planning</b> 7:16 9:16,17,23,24 10:25 19:12 20:21 <b>platform</b> 23:9	please 6:9 47:8 47:11,16 <b>point</b> 16:1 33:8 38:19 <b>police</b> 7:14 8:3 8:7 9:4,20 10:20 11:12,16 11:18 12:15 13:18 15:1 17:13 17:21,22 19:8 20:22 32:1 34:17 37:1,3 38:3 39:13,15 41:15 42:19 <b>policies</b> 10:3 17:3,3 18:24 20:22 21:7 22:3,3,6 23:10 25:9 39:16 44:10 <b>policy</b> 21:4,23 22:15,18,20 25:13,13,15 26:25 30:22 31:2,8,12,14,17 32:2,5,6,10 32:25 40:1 41:5 43:24 44:6 <b>portion</b> 24:21 31:10 35:11 <b>position</b> 7:14,17 11:11,13,14,15 11:20 13:25 15:12 20:13 31:24 32:8 <b>possible</b> 35:10 <b>precise</b> 16:3 <b>preliminary</b> 28:13,24 29:7 42:7,9,12 43:17 44:2,7,11 <b>preparation</b> 7:5 <b>prepare</b> 6:23 7:3 <b>presented</b> 26:22	<b>press</b> 23:15 <b>previously</b> 5:22 12:23 <b>primarily</b> 15:22 <b>Prior</b> 12:12,14 <b>private</b> 8:14 <b>probably</b> 6:13 9:11 11:7 23:23 24:13 <b>problematic</b> 40:20,24 41:11 <b>procedure</b> 21:4 <b>procedures</b> 10:3 20:22 21:7 <b>process</b> 21:14 22:8 38:17,18 <b>produce</b> 17:12 <b>produced</b> 3:11 5:10 <b>produces</b> 17:23 <b>project</b> 20:9 <b>projects</b> 18:11 20:19 <b>propose</b> 44:5 44:10 <b>protests</b> 29:9 29:12 35:16 36:11 37:11 41:16 <b>psychological</b> 9:13 <b>psychology</b> 7:21 <b>public</b> 5:5 8:22 29:16,18 47:14 49:23 <b>publically</b> 17:24 <b>purpose</b> 39:16 40:4 <b>pursuit</b> 25:15,16 <b>put</b> 38:16 <b>putting</b> 39:24	<b>questions</b> 2:4,5 2:6 5:13 13:7 26:21,21,22 26:24 41:23 41:24 42:5,17 44:16 <b>quick</b> 6:4 12:22 42:1 <b>quickly</b> 28:4 38:16 <b>quite</b> 18:21 <b>quotes</b> 31:2	<b>R</b> <b>R</b> 4:1 <b>Rarely</b> 9:12 <b>reaccreditation</b> 39:22 40:2 <b>reach</b> 10:9 <b>read</b> 10:21 27:25 28:15 33:23 43:14,17 44:17,22,23 47:11 48:6,10 48:14,18,22 49:6 <b>real</b> 12:22 <b>really</b> 9:14 16:2 19:22 22:1,5 24:19 28:4 38:15 <b>reason</b> 39:18 48:7,11,15,19 48:23 <b>reasonable</b> 27:25 <b>reasons</b> 11:21 17:2 25:7 <b>recall</b> 16:12 31:15 32:13,17 37:12 43:3,11 <b>receipt</b> 22:23 22:24 24:6 27:21 36:8 39:8 <b>receive</b> 42:23 <b>received</b> 44:2
--	---	---	---	---

27:1 32:22	41:15	says 5:11 30:22	shaking 6:8	38:21,23 39:1
36:16 38:9	<b>responsibilities</b>	31:1,11 41:7,8	<b>SHEET</b> 48:1	40:11,14,19,24
<b>reminder</b> 35:11	19:11	<b>school</b> 9:4	<b>sheets</b> 30:2	41:3,14,17 44:5
36:14,14,23	<b>rest</b> 24:5	<b>science</b> 9:14	47:9,13,16	44:10
36:24 37:9	<b>restraining</b>	<b>scope</b> 9:22,22	<b>shop</b> 10:14	<b>specialized</b>
<b>render</b> 49:9	37:25	<b>screen</b> 37:21	<b>short</b> 42:3	25:7
<b>report</b> 11:24	<b>result</b> 18:11	<b>scroll</b> 23:25	<b>shorter</b> 32:25	<b>specialty</b> 8:24
12:2,4,13,19	28:24 29:7,11	<b>second</b> 13:6	<b>shorthand</b> 5:4,5	<b>specific</b> 20:15
13:24,25 14:4	35:15 43:17	41:23	<b>show</b> 12:22	22:13 26:25
17:23 18:16,20	44:6,11	<b>secondary</b> 10:11	23:10 29:22	38:9
18:20 27:8,12	<b>retained</b> 2:15	<b>section</b> 9:25	39:15,25	<b>specifically</b> 27:1
39:25 40:22	<b>return</b> 47:16	33:24 34:1,2,7	<b>sign</b> 23:10,12,13	27:23 33:10
<b>reported</b> 18:9	<b>review</b> 10:7 17:2	40:10	24:8,9 26:23	<b>speculation</b>
<b>reporter</b> 2:15	18:24 22:8	<b>sections</b> 32:22	27:6,7 28:1	28:3 41:19
3:16 4:13 5:6	23:7,12 28:5	32:22	47:13	<b>spell</b> 5:19
6:6 45:25	38:17	<b>see</b> 13:20 23:3	<b>signature</b> 5:7	<b>spent</b> 20:14
46:14	<b>reviewed</b> 23:21	27:9 30:18	44:17,21 47:9	<b>spoke</b> 7:7
<b>reporting</b> 10:18	<b>revised</b> 24:17	31:2 34:5	47:13,17 48:25	<b>sporadically</b>
10:20,22 11:3	35:2,4	37:21 40:19	7:1 24:6	19:22
12:12 13:15	<b>revisions</b> 21:25	41:14	27:11 30:16	<b>St</b> 1:9 3:7,13,14
14:6 17:20	<b>right</b> 11:3,9 12:7	<b>seeking</b> 39:21	<b>similar</b> 24:1	3:20 4:4,9,10
18:7,10,21	13:8,11,16 14:1	40:2	<b>Sincerely</b> 47:20	4:15 5:18 8:15
<b>reports</b> 10:20	15:20 21:8	<b>seen</b> 12:23,24	<b>Sir</b> 44:16	8:17 47:3,4,5
14:12 17:12,15	24:8 25:17	23:23 30:13	<b>situation</b> 15:17	47:18 48:2
40:3	26:7 28:10	<b>segment</b> 36:21	20:7	<b>staff</b> 10:2,18
<b>request</b> 19:3	29:7 30:3,16	<b>send</b> 24:11,20	<b>six</b> 33:11 37:18	15:3,13,19 16:1
20:10 22:2	30:23 33:13	24:23	<b>skill</b> 18:23	16:5,8 17:13,21
27:15,17	37:15,16 39:11	<b>sense</b> 19:20	<b>skills</b> 9:12,12	18:1 26:10
29:20	39:17 40:11	43:23	<b>smaller</b> 16:6,7	27:18 35:12
<b>requested</b>	<b>right-hand</b> 40:8	<b>sent</b> 17:2 24:18	<b>software</b> 22:19	36:3,8
20:10 28:20	<b>risk</b> 9:1	31:10,12 35:11	22:21 36:1	<b>staffed</b> 15:22
<b>requests</b> 18:11	<b>road</b> 38:21	<b>sentences</b>	39:7,24	<b>Staffing</b> 20:12
18:13,25	<b>role</b> 14:6 16:25	43:10	<b>somebody</b> 19:3	<b>standards</b>
<b>require</b> 24:4	<b>Room</b> 3:14 4:10	<b>separate</b> 9:23	35:12	10:20
<b>requires</b> 24:3	47:4	10:16,21 25:22	<b>sorry</b> 37:17	<b>start</b> 11:12 12:1
27:2	<b>rules</b> 6:4 10:20	32:22	<b>sort</b> 10:9 19:11,16	15:5
<b>research</b> 7:16	<b>run</b> 27:8,12,17	<b>September</b> 7:18	20:6 30:2	<b>started</b> 11:11,14
9:12,15,17,23	39:25 40:3,4	13:10,14 16:12	<b>sorts</b> 20:19	11:16 12:10
9:24 10:1,6,25	<b>Rushing</b> 16:22	29:10	<b>sources</b> 19:1	35:22 36:2
19:12 20:21	<hr/> <b>S</b> <hr/>	<b>service</b> 10:10	<b>special</b> 21:8,10	<b>state</b> 3:16 5:19
<b>reserved</b> 5:7	<b>S</b> 4:1	<b>SERVICES</b> 4:14	21:13,13,18,18	10:18,19,22
<b>resource</b> 10:4	<b>sake</b> 40:5	47:1	21:21,24 22:9	43:4 49:1
19:14	<b>sample</b> 22:3	<b>set</b> 10:17 20:17	24:15 26:8,9	<b>stated</b> 27:22
<b>resources</b> 19:15	<b>saying</b> 6:8 20:7	25:9 26:20,21	28:23 29:6,11	<b>statement</b>
19:18,19,23	25:22 33:23	36:19	29:16,18 32:17	25:14 31:2,8
<b>respond</b> 6:10,16	35:9	<b>sets</b> 18:23	33:1,3,4,24	31:12,14,17,21
<b>response</b> 10:9		<b>sexual</b> 25:13	34:1,2,17 38:14	32:5,6,10,25

33:12,16	25:19,22 31:5	26:17 27:6	topics 9:13 25:20	unsigned 23:10 updates 17:3,25
36:24	32:10	33:19	total 32:22	use 10:22 15:11
<b>statements</b>	<b>sure</b> 23:18 28:9	<b>testified</b> 19:10 19:14 33:5	<b>touching</b> 18:25	23:8 25:13
32:2	44:19	<b>testify</b> 6:20	<b>training</b> 9:8 10:15	31:1,8,11,14,16
<b>States</b> 1:1 3:1,18	<b>sworn</b> 3:11 5:10	<b>testimony</b> 46:3 46:4	<b>transcribed</b> 5:6 <b>transcript</b> 44:18 47:12	32:25 39:20
<b>status</b> 17:1	46:4	<b>text</b> 39:1 42:25 43:2,6	<b>transcripts@a ...</b> 4:17	<b>Usually</b> 38:19
<b>Steffan</b> 2:4,6	<b>system</b> 10:21	<b>thereon</b> 49:10	<b>V</b>	
4:3 5:13,17 7:9	22:15,18,20	<b>thereto</b> 46:10	<b>v</b> 47:5 48:2	
13:5 17:16	23:1,4,20	<b>thing</b> 10:7	<b>vague</b> 17:14	
26:24 28:6	24:2,5,12,15	<b>things</b> 6:21 9:21 10:10 12:9 18:14,24 25:11	26:18 31:9,23	
29:25 31:11,25	24:16,18,19,20	25:21 26:6,11	32:11,19 43:8	
32:14,24	25:4,5 27:20	35:18,20 36:4	43:21	
41:22 42:17	28:18,21 30:12	39:21	<b>varies</b> 26:25	
43:11 44:1,15	30:22,22	<b>think</b> 9:14 11:23	<b>variety</b> 9:21	
44:24	33:17 34:19,25	14:5 17:22	10:5 20:14	
<b>stemmed</b> 36:18	35:15,23	18:22 19:7	<b>various</b> 25:7	
<b>STIPULATED</b>	37:15 38:6	23:17 28:10	<b>verbally</b> 6:7	
5:2	39:3,10,20	33:3,5 35:3	<b>verdict</b> 35:15	
<b>Stockley</b> 35:15		36:18 37:8	<b>versus</b> 5:18	
41:16		40:3,20,23	<b>view</b> 29:18	
<b>Street</b> 4:4,15	<b>tactical</b> 19:25	41:10,22 43:19	<b>violence</b> 9:1	
47:18	<b>take</b> 6:6,13,14	<b>Thinking</b> 16:12	<b>Vonda</b> 16:22	
<b>structure</b> 14:6	30:25 33:11	<b>third</b> 10:17	<b>vs</b> 1:8 3:6	
14:16	33:22 38:18	<b>thought</b> 41:16		
<b>studies</b> 7:22	42:1	<b>threat</b> 8:22	<b>W</b>	
<b>subgroups</b>	<b>taken</b> 1:15 5:4	<b>three</b> 9:23 10:16	<b>waiting</b> 44:18	
24:23 25:1,3	6:19 42:3 46:4	10:25 19:11	<b>waive</b> 44:17,21	
<b>subject</b> 22:1,5	46:8 47:8	27:2,3 33:3	<b>walk</b> 19:3	
28:3 32:12,19	48:3	34:13	<b>want</b> 36:16	
41:19 43:8,22	<b>talk</b> 6:5 7:5	<b>time</b> 11:20 12:15	<b>wanted</b> 18:22	
43:23	<b>talked</b> 35:18	12:17 13:13,15	<b>Washington</b> 9:5	
<b>Subpart</b> 31:1	<b>talking</b> 15:17	13:18,22,24	<b>way</b> 17:7 19:5	
<b>subscribe</b> 49:11	30:23	16:14,15 27:25	24:20,23 36:7	
<b>subsections</b>	<b>technically</b>	37:6 43:14	38:11	
9:24	18:19 24:9	<b>times</b> 10:9 18:6	<b>ways</b> 19:6	
<b>substance</b> 49:8	<b>tell</b> 19:4 22:6	20:13 34:7,13	39:23	
<b>suggest</b> 44:21	<b>temporarily</b>	<b>title</b> 9:16	<b>we're</b> 18:7,19	
<b>suggested</b>	15:14	<b>titled</b> 34:17	<b>web</b> 23:9	
36:10 37:10	<b>temporary</b> 15:9	<b>today</b> 6:20	<b>web-based</b>	
<b>suggestions</b>	33:15,23,25	<b>told</b> 40:23	23:9	
36:6	37:14 38:15	<b>top</b> 38:3	<b>weekly</b> 17:9,9	
<b>Suite</b> 4:4	<b>Ten</b> 16:4	<b>topic</b> 21:22	<b>witness</b> 3:10 5:7	
<b>summaries</b>	term 15:11 31:2		26:3 44:23	
32:2 33:6,9	<b>terminal</b> 22:10		46:2,4 47:11	
<b>summarize</b>	terms 18:7		48:1,25	
10:24	23:24,25 39:8			
<b>summary</b> 25:18	<b>test</b> 24:4 26:13			

word 18:4	40:11	1:8 3:6	
words 19:17	<b>1-06</b> 34:17 41:4	<b>42</b> 2:5,6	
work 8:14 9:2,13	<b>1:22</b> 3:12 5:1	<b>44</b> 7:13	
10:1,2 16:1	<b>10</b> 16:5,10,10		
18:20,21 19:21	34:6	<b>5</b>	
19:24 21:14,24	<b>11</b> 34:16	<b>5</b> 2:4	
43:16,20,24	<b>1130</b> 4:4		
worked 8:9	<b>11th</b> 47:18	<b>6</b>	
working 39:4,5	<b>12</b> 16:11	<b>63101</b> 4:4,15	
workload 19:22	<b>1200</b> 3:14 4:10	47:18	
20:10	47:4	<b>63103</b> 4:10 47:4	
workloads 20:3	<b>13</b> 2:8 32:21	<b>63623</b> 47:25	
20:18	34:1,2,7 40:10	<b>669-3420</b> 4:5	
works 6:2	<b>19</b> 47:8 48:3		
40:23	<b>19th</b> 1:16 3:11	<b>7</b>	
write 32:3 38:19		<b>711</b> 4:15 47:17	
writes 31:8	<b>2</b>	<b>7th</b> 33:17	
writing 22:7	<b>2</b> 2:9 29:23		
written 31:21	30:1,1 33:12	<b>8</b>	
33:9 40:7	<b>2:31</b> 3:13 45:1	<b>800</b> 4:16	
44:18	<b>20</b> 49:15	<b>842</b> 1:19 3:15	
wrong 30:19	<b>2003</b> 8:12,13	46:1	
wrote 31:14,17	<b>2005</b> 8:8,13		
33:9	<b>2006</b> 35:25	<b>9</b>	
<b>www.alaris.us</b>	36:2	<b>906</b> 4:4	
4:16	<b>2013</b> 34:22		
	<b>2014</b> 11:21		
<b>X</b>	<b>2015</b> 33:17 34:11		
<b>X</b> 2:1	<b>2016</b> 11:23 34:6		
	<b>2017</b> 7:18 12:7		
<b>Y</b>	13:10,14 16:6,8		
<b>Yeah</b> 12:1 15:5	16:13 29:10		
<b>year</b> 12:20	34:7 36:17,17		
<b>years</b> 18:7,8	<b>2018</b> 1:16 3:12		
<b>yes-no</b> 26:21	47:8 48:3		
	<b>2019</b> 47:2		
<b>Z</b>	<b>280-3376</b> 4:16		
	<b>29</b> 2:9		
<b>0</b>			
<b>084-00306</b>	<b>3</b>		
3:15	<b>3</b> 47:2		
<b>084.003306</b>	<b>30</b> 47:17		
1:19 46:2	<b>314</b> 3:14 4:5,10		
	47:4		
<b>1</b>			
<b>12:8</b> 13:2,3	<b>4</b>		
<b>1-01</b> 32:18,21	<b>4:17-cv-2455- ...</b>		
33:1,24 34:1,2			